IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 8TH FEBRUARY 2007 / 19TH MAGHA 1928

WP(C).No. 10710 of 2006(Y)

PETITIONER:

SAI TEJA ENTERPRISES, 38/2201,
SWAPNA'S, KALOOR-ELAMKULAM ROAD, ELAMKULAM,
COCHIN-682 017, REP. BY PROPRIETOR K.SREENIVASULU,
THROUGH HIS POWER OF ATTORNEY HOLDER,
S.MUNNIKRISHNAIAH.

BY ADV. SRI.MOHAN PULIKKAL
SMT.MANJU RAJAN
SRI.PAULCY KURIAN

RESPONDENTS:

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1. THE KERALA STATE CIVIL SUPPLIES
CORPORATION LTD., MAVELI BHAVAN,
MAVELI ROAD, GANDHI NAGAR, COCHIN-682 020,
REP. BY ITS CHAIRMAN AND MANAGING DIRECTOR.

2. THE ADDL. GENERAL MANAGER (PURCHASE),
THE KERALA STATE CIVIL SUPPLIES CORPORATION LTD.,
MAVELII BHAVAN, MAVELI ROAD, GANDHI NAGAR,
COCHIN-682 020.

3. THE STATE OF KERALA REPRESENTED
BY THE SECRETARY, CIVIL SUPPLIES DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

R1&2 BY ADV. SRI.LAKSHMI NARAYAN, SC, SUPPLYCO
R3 BY GOVERNMENT PLEADER SMT.SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE TENDER NOTICE DT.13.9.2005.

P2: TRUE COPY OF THE QUOTATION SUBMITTED BY PETITIONER.

P3: TRUE COPY OF THE LETTER DT.28.9.2005 SUBMITTED BY THE PETITIONER TO R2.

P4: TRUE COPY OF THE PURCHASE ORDER DT.30.9.2005.

P5(a): STATEMENT SHOWING THE YARD PRICE OF CUMIN SEED AT VARIOUS YARDS IN RAJASTHAN.

P5(b): SSTATEMENT SHOWING DOMESTIC PRICES OF VARIOUS SPICES COMPILED BY THE SPICES BOARD OF INDIA.

P6(a): TRUE COPY OF THE LETTER DT.1.10.2005 SUBMITTED BY PETITIONER TO R2.

P6(b): .DO. .DO.

P7: TRUE COPY OF LETTER DT.7.12.2005 SUBMITTED BY PETITIONER TO R2.

P8: TRUE COPY OF PROCEEDINGS OF R2.

P9: RUE COPY OF THE LETTER DT.30.1.2006 SUBMITTED BY PETITIONER TO R2.

P10: TRUE COPY OF THE LETTER DT.14.3.2006 ISSUED BY R2.

RESPONDENT'S EXHIBITS:

TRUE COPY OF EXT.P1 TENDER.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.10710 of 2006

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Dated this the 8th day of February, 2007.

JUDGMENT

The petitioner is challenging Ext.P8 order whereunder Civil Supplies Corporation has demanded differencial cost of Rs.1,38,100/- for non-supply of cumin seed(Jeera) for which order was given to the petitioner pursuant to Ext.P2 tender. Though petitioner submitted a tender for supply in 56 centres vide Ext.P2, the price being higher than other tenderers, the petitioner's tender was rejected for supply to 55 stations. However, it is seen from Item 56 of Ext.P2 tender that petitioner committed a typing mistake in typing 4138 instead of 7138 which is the price offered by the petitioner for the same item for supply in 55 centres. The petitioner has later sent a communication pointing out the mistake vide Ext.P3 which was rejected by the respondents. Counsel for the Civil Supplies Corporation was directed to find out the price at which the quotation was given to the other tenderer, which is stated to be Rs.6,900/- per tonne. The petitioner's quotation for supply to Mananthavady is a typing mistake is evident for any man of common sense which unfortunately the Civil Supplies official handling it did not have. In fact, the price offered for supply by the very same petitioner for Sultan Bathery depot is Rs.7,138/- per tonne and for

Mananthavady is Rs.4,138/-. Since Mananthavady is a near station, price difference could be only the freight difference that could be attributable for supply in Mananthavady. It is also seen that petitioner has offered uniform price for supply in 55 other stations and therefore, the mistake is intrinsic and requires no special intelligence to understand it. The demand raised by the Civil Supplies Corporation under challenge is the height of perversity is what I feel. In the circumstances, W.P. is allowed condemning the action of the Corporation. Consequently there will be direction to the Civil Supplies Corporation to forthwith refund the earnest money deposit paid by the petitioner on production of copy of this judgment.

C.N.RAMACHANDRAN NAIR
Judge

pms